

Executive Summary – Enforcement Matter – Case No. 53491

City of Graham

RN101386308

Docket No. 2016-1844-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Graham PWS, 429 4th Street, Graham, Young County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 17, 2017

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,322

Total Paid to General Revenue: \$1,322

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 26, 2016 through October 7, 2016

Date(s) of NOE(s): October 7, 2016

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City of Graham
RN101386308
Docket No. 2016-1844-PWS-E

Violation Information

1. Failed to comply with the acute maximum residual disinfectant level (“MRDL”) for chlorine dioxide for the month of July 2016 and failed to provide public notification and submit a copy of the public notification to the Executive Director (“ED”) regarding the failure to comply with the acute MRDL for chlorine dioxide [30 TEX. ADMIN. CODE §§ 290.110(b)(3), (c)(3), and (f)(5)(B) and 290.122(a)(2) and (f) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested and failed to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed [30 TEX. ADMIN. CODE § 290.117(i)(6) and (j)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Provide consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested during the January 1, 2015 through December 31, 2015 monitoring period and submit to the ED a sample copy of the consumer notification and certification that consumer notification was distributed;
- ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the ED;
- iii. Provide public notification regarding the failure to comply with the acute MRDL for chlorine dioxide for the month of July 2016, and provide a copy of the public notification to the ED; and
- iv. Conduct an additional chlorine dioxide residual test at the service connection nearest the treatment plant where the elevated chlorine dioxide residual was detected, an additional test at the first service connection after the point where the water is

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rechlorinated, and an additional test at a location in the far reaches of the distribution system.

b. Within 45 days, submit written certification to demonstrate compliance with a.i. through a.iv.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jason Fraley, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2552; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Brandon Anderson, City Manager, City of Graham, P.O. Box 1449,
Graham, Texas 76450-7449
The Honorable Jack Graham, Mayor, City of Graham, P.O. Box 1449, Graham, Texas
76450-7449

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|-------------|
| DATES | Assigned | 10-Oct-2016 | Screening | 18-Oct-2016 | EPA Due | 31-Dec-2016 |
| | PCW | 19-Oct-2016 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|----------------|---------------------------|-------|
| Respondent | City of Graham | | |
| Reg. Ent. Ref. No. | RN101386308 | | |
| Facility/Site Region | 3-Abilene | Major/Minor Source | Major |

CASE INFORMATION

| | | | |
|--|---------------------|------------------------------|--------------------|
| Enf./Case ID No. | 53491 | No. of Violations | 2 |
| Docket No. | 2016-1844-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Jason Fraley |
| | | EC's Team | Enforcement Team 2 |
| Admin. Penalty \$ Limit Minimum | \$50 | Maximum | \$1,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$1,150 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | | |
|---------------------------|-------|-------------------|--------------------------------|-------|
| Compliance History | 15.0% | Adjustment | Subtotals 2, 3, & 7 | \$172 |
|---------------------------|-------|-------------------|--------------------------------|-------|

Notes Enhancement for three NOV's with the same/similar violations.

| | | | | | |
|--------------------|----|------|--------------------|-------------------|-----|
| Culpability | No | 0.0% | Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------|--------------------|-------------------|-----|

Notes The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | | |
|-------------------------|------|---------------------|-------------------|-----|
| Economic Benefit | 0.0% | Enhancement* | Subtotal 6 | \$0 |
|-------------------------|------|---------------------|-------------------|-----|

Total EB Amounts \$12
Estimated Cost of Compliance \$230
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,322 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$1,322 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$1,322 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|------|------------------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|------------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$1,322 |
|------------------------|---------|

Screening Date 18-Oct-2016

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PCW

Respondent City of Graham

Policy Revision 4 (April 2014)

Case ID No. 53491

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101386308

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 3 | 15% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 15%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 18-Oct-2016

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PCW

Respondent City of Graham

Policy Revision 4 (April 2014)

Case ID No. 53491

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101386308

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.110(b)(3), (c)(3) and (f)(5)(B) and 290.122(a)(2) and (f) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the acute maximum residual disinfectant level ("MRDL") for chlorine dioxide for the month of July 2016 and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the acute MRDL for chlorine dioxide. Specifically, on July 8, 2016 the Facility exceeded the MRDL for chlorine dioxide and did not conduct the required additional tests.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | x | | |
| Potential | | | |

Percent 100.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Failure to comply with the acute MRDL and to provide public notification caused persons served by the Facility to be exposed to contaminants which exceed levels that are protective of human health.

Adjustment \$0

\$1,000

Violation Events

Number of Violation Events 1

31 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One monthly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
|---------------|----------------|-----------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent City of Graham
Case ID No. 53491
Reg. Ent. Reference No. RN101386308
Media Public Water Supply
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$25 | 9-Jul-2016 | 22-Jul-2017 | 1.04 | \$1 | n/a | \$1 |
| Training/Sampling | \$100 | 26-Sep-2016 | 22-Jul-2017 | 0.82 | \$4 | n/a | \$4 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$45 | 8-Jul-2016 | 22-Jul-2017 | 1.04 | \$2 | n/a | \$2 |
| <p>The Training/Sampling cost includes the estimated amount to implement procedures to ensure that all necessary public notifications are provided in a timely manner, calculated from the record review date to the estimated date of compliance.</p> <p>The Other (as needed) cost includes the estimated amount to conduct additional tests, calculated from the initial date when the additional tests were due to the estimated date of compliance.</p> <p>The Record keeping system cost includes the estimated amount to ensure that the delinquent public notification (\$25 per notification x one notification) is provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of the public notification to the estimated date of compliance.</p> | | | | | | | |
| Notes for DELAYED costs | | | | | | | |
| Avoided Costs | | | | | | | |
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Notes for AVOIDED costs | | | | | | | |
| <p>Approx. Cost of Compliance</p> | | | | | | | |
| <p>TOTAL</p> | | | | | | | |

Approx. Cost of Compliance \$170

TOTAL \$8

Screening Date 18-Oct-2016
Respondent City of Graham
Case ID No. 53491

Docket No. 2016-1844-PWS-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101386308

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.117(i)(6) and (j)

Violation Description

Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed for the January 1, 2015 to December 31, 2015 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | x | | |

Percent 15.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

291 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
|---------------|----------------|-----------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$173

This violation Final Assessed Penalty (adjusted for limits) \$173

Economic Benefit Worksheet

Respondent City of Graham
Case ID No. 53491
Reg. Ent. Reference No. RN101386308
Media Public Water Supply
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$60 | 31-Dec-2015 | 22-Jul-2017 | 1.56 | \$5 | n/a | \$5 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare and mail the consumer notification for the January 1, 2015 through December 31, 2015 monitoring period to persons served at the sites which were sampled and the TCEQ [(((\$0.50 x 20 sampled locations) + \$50) x one monitoring period], calculated from the date the consumer notification was due to the estimated date of compliance.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$60

TOTAL

\$5

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

Compliance History Report for CN600338479, RN101386308, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN600338479, City of Graham

Classification: SATISFACTORY

Rating: 1.60

Regulated Entity: RN101386308, City of Graham

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 429 4TH STREET, GRAHAM, YOUNG COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2520001 **WATER LICENSING LICENSE** 2520001

Compliance History Period: September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

Date Compliance History Report Prepared: October 18, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 18, 2011 to October 18, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jason Fraley

Phone: (512) 239-2552

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | | |
|---|---|--------------------------|--|
| 1 | Date: 01/29/2016 (1364756) | | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.117(i)(6) 30 TAC Chapter 290, SubChapter F 290.117(j) | | |
| | Description: LCR LCN - The system failed to provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that were tested during the reduced monitoring period from 01/01/2015 to 12/31/2015. | | |
| 2 | Date: 09/15/2016 (1364756) | | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(5)(B) | | |
| | Description: JUL/2016 CLO2 Acute MRDL - The system violated the MRDL for chlorine dioxide and failed to collect each of the three additional distribution samples required during the month of 07/2016. | | |
| 3 | Date: 09/16/2016 (1364756) | | |
| | Self Report? NO | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2) 30 TAC Chapter 290, SubChapter F 290.122(f) | | |
| | Description: JUL/2016 CLO2 Acute MRDL PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was for an acute monthly chlorine dioxide MRDL violation during the month of 07/2016. | | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GRAHAM
RN101386308**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2016-1844-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Graham (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 429 4th Street in Graham, Young County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 6,519 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).
2. During a record review conducted on September 26, 2016 through October 7, 2016, an investigator documented that:
 - a. The Respondent exceeded the maximum residual disinfectant level ("MRDL") for chlorine dioxide on July 8, 2016 and did not conduct the required additional tests, and did not provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the acute MRDL for chlorine dioxide; and

- b. The Respondent did not provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested and did not mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed for the January 1, 2015 to December 31, 2015 monitoring period.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to comply with the acute MRDL for chlorine dioxide for the month of July 2016 and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the acute MRDL for chlorine dioxide, in violation of 30 TEX. ADMIN. CODE §§ 290.110(b)(3), (c)(3), and (f)(5)(B) and 290.122(a)(2) and (f) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed, in violation of 30 TEX. ADMIN. CODE § 290.117(i)(6) and (j).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of \$1,322 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$1,322 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Graham, Docket No. 2016-1844-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Provide consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested during the January 1, 2015 through December 31, 2015 monitoring period and submit to the Executive Director a sample copy of the consumer notification and certification that consumer notification was distributed, in accordance with 30 TEX. ADMIN. CODE § 290.117;
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - iii. Provide public notification regarding the failure to comply with the acute MRDL for chlorine dioxide for the month of July 2016, and provide a copy of the public notification to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iv. Conduct an additional chlorine dioxide residual test at the service connection nearest the treatment plant where the elevated chlorine dioxide residual was detected, an additional test at the first service connection after the point where the water is rechlorinated, and an additional test at a location in the far reaches of the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - b. Within 45 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.iv. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

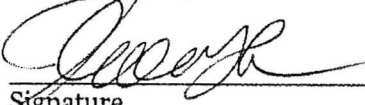
9/22/17
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

July 31, 2017
Date

John Chiles Graham
Name (Printed or typed)
Authorized Representative of
City of Graham

Mayor
Title

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.